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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

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| EXAMINER |
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SZYMANSKI, THOMAS M

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2134

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/066,948
Filing Date: February 04, 2002
Appellant(s): GULICK, DALE E.

MAILED

MAR 01 2007

Technology Center 2100

Mark W. Sincell
Reg. No. 52,226
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/20/2006 appealing from the Office action mailed 3/9/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1-21, 40-46 allowed.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

(A) Whether Claims 1-6, 8-13, 15-20, and 40-45 are anticipated by Rakavy; and

(B) Whether Claims 7, 14, 21 and 46 are obvious over Rakavy.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|-----------|--------------|---------|
| 5,978,912 | Rakavy et al | 11-1999 |
|-----------|--------------|---------|

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Rakavy et al U.S. Patent No. 5,978,912.

Regarding Claim 22: a timer (Fig 2, 4.420, Col 9 lines 4-7)

an SMI request register (Fig 2, Col 8 lines 27-40, Col 16 lines 40-51)

a processor (2.110) coupled to the timer and coupled to the SMI request register (2.123), wherein the processor is configured to receive an authorization request for a system action (4.419), wherein the processor is further configured to initialize the time (4.420) in response to receiving the authorization request for the

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system action (4.421). (Fig 4, Col 9 line 1 – Col 10 line 19, Col 16 line 10 – Col 17 line 17)

Regarding Claim 23: The processor is further configured to provide an authorization entry to the SMI request register in response to receiving the authorization request for the system action (Fig 4, Col 9 lines 50-Col 10 lines 18, Col 16 lines 41-50).

Regarding Claim 24: SMI register (Fig 2, Col 16 lines 40-51) As stated the microprocessor provides for a SMI pin that within the implementation of such a system such as the Intel microprocessor referenced is connected to an affiliated SMI register contained within the integrated circuit.

Regarding Claim 25: Ethernet Controller (Fig 2.170, Col 5 lines 6-31, Col 12 lines 30-37)

Regarding Claim 26: The Ethernet controller is configured to receive a request for the system action. (Fig 4, Col 9 lines 1-10, 40-50, Col 13 lines 41-65) The controller receives the request from the system to distribute the alert onto the network and receives the response back constituting the action.

Regarding Claim 27: wherein the system action is a remote management and control protocol (RMCP) request. (Col 9 lines 7-20, Col 13 lines 24-60)

Regarding Claim 28: wherein the processor is further configured to receive a request for the system action. (Fig 2, 4, Col 8 lines 41-52, Col 13 lines 45-65)

Regarding Claim 29: further comprising: a memory. (fig 2)

Regarding Claim 30: wherein the SMI request register is configured to initialize system management mode (SMM), wherein the memory is configured to store SMM

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code in response to the SMI request register initializing SMM. (Col 8 lines 27-52, Col 16 lines 22 – 67)

Regarding Claims 31-39: Claims 31-39 represent an additional computer system implementation, of claims 22-30 and as such are rejected on the same basis.

(10) Response to Argument

The rejection of claims 1-21 and 40-45 has been withdrawn and therefore only arguments related to the rejection of claims 22-39 will be addressed herein.

The appellant has asserted in his arguments on page 9 of the brief dated 11/20/2006 that "...Rakavy ... fails to teach or suggest granting the request for the system action if the expiration of the timer occurs before the result of the authorization request for the system action is received, as set forth in independent claims 1, 8, 15, 22, 31, and 40." The examiner respectfully maintains that such a limitation is not taught by claims 22 and 31 and therefore the basis of the appellant's argument is erroneous. The prior art teaching of Rakavy clearly provides for the limitations as set forth in claims 22 and 31 and specifically "...receive an authorization request for a system action, wherein the processor is further configured to initialize the timer in response to receiving the authorization request for the system action." The system clearly provides for receiving an authorization request as outlined in figure 4 part 419 wherein the system receives instruction to generate the request and pass the request through various components

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such as the processor in order to place the request onto the network and in response to this request a timer is initiated at figure 4 part 420 and further an actual authentication of the request occurs at 4.421, if a response is received.

The appellant's arguments against the watchdog timer of Rakavy as described in reference to the separate timer that runs within the OS to detect OS failure does not apply to the rejection of claims 22 and 31 as alleged since the timer of 4.420 is clearly a separate timer than the OS watchdog timer. Furthermore, additional arguments provided by the appellant are all directed to specific limitations of the allowed claims that are not contained with the currently rejected claims of 22 and 31. The appellant's assertions that "independent claims 1, 8, 15, 22, 31, and 40 do not read on the operating system failure detection techniques described in Rakavy" is a correct statement but the appellant has overlooked the fact that the teachings of figure 4 and the timeout taught within that figure alone reads upon claims 22 and 31 as outlined in the rejection and explained above and so need not rely on the operating system failure detection techniques as set forth by Rakavy, but instead the network timeout teachings of Rakavy.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Thomas M. Szymanski

TMS 2/20/07

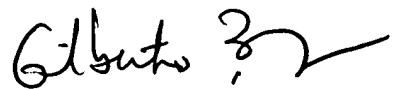
Conferees:

Gilberto Barron, Jr.

GB

Matthew Smithers

MS


GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100